IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 479 of 1995

The Commissioner of Income Tax ... Applicant.

vs.

Shri Shantilal K. Somaiya ... Respondent

Mr. Parg Vyas i/b. H.D. Rathod for Applicant.

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 10th August , 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case, the Tribunal was justified in law in upholding the decision of the CIT (A) in holding that the salary, commission and perquisites totalling Rs.69,096/- received by Smt. Mayadevi Somaiya, wife of Shri Shantilal K. Somaiya Organic Chemicals Ltd., in which the assessee has substantial interest is not includible in the assessee's income u/s.64(1)(ii) of the I.T. Act."

2. Heard learned counsel for both sides. Perused reference proceedings.

3. For the reasons recorded by us in our judgment dated 1st July 2005

passed in Income Tax Reference No. 397 of 1988 (**C.I.T. vs. M/s. Pithwa Engg. Works),** wherein we have relied upon decision of this court in the case of **Commissioner of Income-tax v/s. Camco Colour Co.,** reported in ITR Vol. 254 (2002), page 565 we do not think it necessary to answer the reference made to this Court for the Assessment Years 1976-77 and 1977-78, having negligible tax effect. Accordingly, reference stands returned unanswered with no order as to costs.

(A. S. AGUIAR J.) (V. C. DAGA J.)

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